

REMARKS

Overview

Claims 1-5 and 8 and 9 are herein cancelled without prejudice as being directed to unelected claims pursuant to a Restriction Requirement issued March 26, 2007. Claims 6 and 7 remain in prosecution.

In the Office Action dated June 21, 2007, claims 6 and 7 stand rejected under 35 U.S.C. § 102(a) as anticipated by US 3,378,018 to Lawter and under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. WO 96/12067 in view of JP 7-279481.

Claim 6 is herein amended. Applicant submits that all claims are patentable over the cited references.

Rejection under 35 USC 102(a)

With respect to the rejection of claim 1 under 35 USC 102(a), claim 1 as amended now recites in part:

... the cell further comprises means (52) for lifting water from a lower part of the cell (2) and means (54) **located at the surface of the pavement** for applying the water to the pavement surface to provide evaporation enhancement means.

The amendment clarifies the point that there are means located at the pavement surface to apply water to the pavement to enhance the evaporation of water from the pavement surface. Support for this amendment can be found throughout the specification and at least by Figure 1 and the associate discussion in the specification. Thus, it is clear that the Specification teaches and the claims recite that, albeit somewhat counter intuitively, applying water to the surface of the pavement will enhance evaporation and improve drainage efficiency.

In contrast, Lawter relates to a different technical field because it concerns the recycling of water used in a car wash. Further, in Lawter, the paved surface does not define an upper boundary of the cell. The paved surface simply is the surface upon which an automobile is washed. Lawter teaches taking the water away from the drained surface, via a trough into an offset tank. Lawter then separates the solids from the water and reuses the water by spraying it onto a vehicle to be washed. This only indirectly results in the application of water to the pavement. Lawter has no intention to enhance evaporation of water from the pavement and nor does the reference teach such a feature.

The amendment to claim 6 requires that the applying means is located at the surface of the pavement and that it applies water to the pavement surface to provide evaporation enhancement means. Thus, Lawter neither meets the structural limitations of the claims (“a paved surface (6) defining an upper boundary of the cell” or “means (54) located at the surface of the pavement for applying the water to the pavement surface”). Again, Lawter simply fails to provide for evaporation enhancement.

Therefore Applicant submits, as amended, claim 6 overcomes this basis of rejection.

Rejection under 35 USC 103(a)

Applicant respectfully traverses the rejection under 35 USC §103 that the invention that is obvious over WO 96/12067 to Pratt in view of JP 7-279481.

As the Examiner indicates, JP 7-279481 is intended to use recycled water to melt snow. Therefore, the reader of the Japanese specification is taught to heat water and then apply it to a surface where snow is lying. The Japanese document further relates to a rather specialized application. Further, there is no suggestion that the spray is provided to do anything other than distribute the heated water over the snow to be melted. Indeed, the person employing the Japanese system would be frustrated either by evaporation of the heated water before it could exchange its heat with the snow or the cooling of the hot water before it could aid in evaporation.

In addition, the claim amendment renders the obviousness rejection moot because the purpose disclosed by the Japanese specification shows that its spray is well above the surface and hence there is no teaching to provide means located at the surface of the pavement for applying the water to the pavement surface to provide evaporation enhancement means.

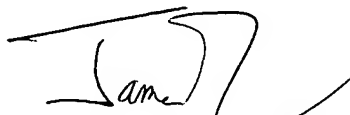
Accordingly, Applicant submits that, as amended, claim 6 overcomes this basis of rejection and is therefore patentable over the prior art of record. Applicant further submits that claim 7 is also patentable as depending from a patentable base claim.

CONCLUSION

Applicant submits that claims 6 and 7 are allowable and requests early favorable action by the Examiner.

If, in the Examiner's opinion, a telephonic interview would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James E. Fajkowski', is written over a horizontal line.

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